

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>SHANNON BUSS ET AL.,</p> <p>v.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 53653</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on June 21, 2011, Sondra W. Mercier and MaryKay Kelley presiding. Marvin R. Cardenas and Shannon Buss appeared on behalf of Petitioners, with the latter appearing pro se. Respondent was represented by Robert D. Clark, Esq. Petitioners are protesting the 2009 classification of the subject property.

Subject property is described as follows:

**8670 Spruce Mountain Road, Larkspur, Colorado
Douglas County Schedule No. R04676617**

The subject is a vacant 12.35-acre site fronting Spruce Mountain Road. Plum Creek lies to the rear, and approximately 60% of the site lies within a flood plain.

Petitioners are requesting residential classification for tax year 2009. Respondent assigned vacant land classification.

Ms. Shannon R. Buss testified that Petitioners have used the subject site as an integral and contiguous part of the adjacent improved residential parcel for over 15 years. She argued that the subject meets the requirements of common ownership and use in conjunction with the improved adjacent site.

Ms. Buss testified that the subject site is mowed frequently and has hosted yard sales and many gatherings. Dogs, goats, and a horse have roamed the site over the years. Children have ridden go-carts across the site, and a teepee sits on it.

Respondent's witness, Larry Shouse, Certified General Appraiser, referenced the Assessor's Reference Library's judgment criteria for integral use and was not convinced the standard was met; the teepee provides recreation for children but does not meet the criteria as a residential improvement. No substantial physical improvements (buildings, structures, fixtures, fences, amenities, or water rights) existed, and the vacant parcel has been marketed independently of the improved site.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly classified for tax year 2009.

The Board reviewed the definitions for "residential land" and "residential improvements." Section 39-1-102(14.4), C.R.S. defines "residential land" as "a parcel or contiguous parcels of land under common ownership upon which residential improvements are located and which is used as a unit in conjunction with the residential improvements located thereon." According to Section 39-1-102(14.3), C.R.S., the definition of "residential improvements" includes "buildings, structures, fixtures, fences, amenities, and water rights that are an integral part of the residential use."

As provided by Colorado case law, a parcel of land can qualify for residential classification in one of two ways: "either by itself containing a residential dwelling unit that is used as such or, alternatively, by having residential improvements other than a dwelling unit that is used as a unit in conjunction with a residential dwelling unit located on a contiguous parcel that is under common ownership." *Sullivan v. Board, Equalization*, 971 P.2d 675, 677 (Colo. App. 1998).

The Board found that the subject site offered no dwelling so as to qualify under the first way listed in *Sullivan*. The Board also found that the subject property contained none of the improvements provided in Section 39-1-102(14.3), C.R.S., so as to qualify under the second way listed in *Sullivan* or pursuant to Section 39-1-102(14.4), C.R.S. Accordingly, the Board finds that the subject property was properly classified as vacant land.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 15 day of July 2011.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier
Sondra W. Mercier

MaryKay Kelley
MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Amy Bruis
Amy Bruis

